

## **REMARKS**

No claims have been amended.

### 1. Rejection under 35 U.S.C. § 103(a)

Claims 1, 2, 6, 7, 8 and 39 remain rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 5,962,437 to Kucera *et al.* ("Kucera I") in view of U.S. Patent No. 5,770,584 to Kucera *et al.* ("Kucera II") for the reasons provided on pages 3-6 of the Office Action. Specifically, the Examiner contends that the C2 (ethyl) value assigned to R<sub>2</sub> in the pending claims is obvious in view of Kucera's teaching of C<sub>6</sub>-C<sub>14</sub> for R<sub>2</sub> because the ethyl group is simply a homolog of the C<sub>6</sub>-C<sub>14</sub> group and both Kucera '437 and Kucera '584 suggest that the length of the attached alkyl groups can be modified.

Applicants submit that the basis for the activity of the compounds of Formula (I) of Kucera '437 is that the compounds are considered analogs of phosphatidylcholine with lipophilic moieties represented by R<sub>1</sub> and R<sub>2</sub>, wherein R<sub>2</sub> in particular is preferably a C<sub>8</sub>-C<sub>12</sub> alkyl group, and even more preferably a C<sub>8</sub> or a C<sub>10</sub> alkyl group (see, *e.g.*, col. 5, lines 58-65 of Kucera '437). Since a chain of 8 or 10 carbon atoms is described as preferred for R<sub>2</sub>, it would **not** be an obvious modification of R<sub>2</sub> to replace the 8- or 10-carbon chain with a 2-carbon chain - *i.e.*, a modification that significantly decreases lipophilicity with no rationale for doing so. Therefore, the Examiner's assertion that Kucera '437 suggests variations in chain length for R<sub>1</sub> and R<sub>2</sub> must be read within the context of the Kucera '437 disclosure and not simply a result achieved through hindsight.

Kucera '584 teaches molecules generally having only a single lipophilic site at R<sub>1</sub> to counter balance the hydrophilic end (-NR<sub>2</sub>R<sub>3</sub>-J-WZ) of the described amphipathic molecules. See, *e.g.*, col. 2, line 1 to col. 3, line 58. R<sub>1</sub> is described in Kucera '584 as being C<sub>14</sub>-C<sub>18</sub>, which is well outside the values of C<sub>9</sub> and C<sub>11</sub> respectively recited for R<sub>1</sub> for the two compounds of Applicants' claim 1. Applicants submit out that if a person of ordinary skill found the motivation to modify the R<sub>2</sub> region of the compounds of Kucera '437 so as to make R<sub>2</sub> significantly less lipophilic based on the teachings of Kucera '584 (as asserted by the Examiner), then that same person would be equally motivated to increase the minimum number of carbon

atoms in the R<sub>1</sub> region of the Kucera '437 compounds from 6 to a minimum of 14 carbon atoms as described in Kucera '584. Such a modification of R<sub>1</sub> clearly results in the exclusion of the two compounds of claim 1. Therefore, at least for this reason, Kucera I in view of Kucera II does not render Applicants' claims obvious. Therefore, Applicants respectfully request withdrawal of the rejection.

2. **Conclusion**

It is respectfully submitted that the rejections to the claims have been overcome. Should the Examiner disagree, Applicants respectfully request a telephonic or in-person interview with the undersigned attorney to discuss any remaining issues and to expedite the eventual allowance of the claims.

Except for issues payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310.

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Respectfully submitted,  
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